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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/519,906 | 02/04/2005 | Alexandre Cury Schmid | 04304/0202236-USO | 2918 |

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| EXAMINER | |
|---|---|
| NALVEN, EMILY IRIS | |
| **ART UNIT** | **PAPER NUMBER** |
| 3744 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/28/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/519,906 | SCHMID ET AL. | |
| | Examiner | Art Unit | |
| | Emily I. Nalven | 3744 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *03 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-7** are rejected under 35 U.S.C. 102(b) as being anticipated by Mandel et. al. (US Patent No. 5,911,750).

**In regard to claim 1**, Mandel et. al. teach an air distribution system (col 3 lines 26-28) for combined refrigerators (40) of the types which comprises a freezing compartment (62) (col 3 lines 66-67 and see Fig. 3) and a refrigerating compartment (63) (col 4 lines 3-4 and see Fig. 3), an air- cooling compartment (ACC, see annotated Fig. 3 below) lodging at least one evaporator (118) (see Fig. 3 and col 4 lines 22-23), a distributing duct (131) having a rear window (127) (col 4 lines 42-44) opened to the air- cooling compartment ((ACC, see annotated Fig. 3 below), at least one front opening (89) communicating with the freezing compartment (62) (col 3 lines 64-67). The front opening (89) allows a user to enter the freezing compartment (62) for maintenance or regular usage and the term "communicating" is interpreted to mean that the front opening (89) entrance leads to the location of the cool air contained in the freezing compartment (62).

Mandel et. al. also teach one end (139) opening maintained in communication with the refrigerating compartment (63) (see Fig. 3), and at least one fan (117) producing a forced airflow from the air-cooling compartment (ACC, see annotated Fig. 3 below) to the freezing compartment (62) and to the refrigerating compartment (63) (see Fig. 3 and col 4 lines 23-26), characterized in that the distributing duct (131) carries a conduct (CON, see annotated Fig. 3 below) having a first end (side further from fan 117) coupled to the end Opening of the distributing duct (131) (see Fig. 3) and a second end (side closest to fan 117) selectively placed in fluid communication with one of the parts (121) defined by the distributing duct (131) and by the air-cooling compartment (ACC, see annotated Fig. 3 below).(col 4 lines 29-34 and see Fig. 3), said • conduct being internal to the distributing duct (131) (see Fig. 3).

**In regard to claim 2**, Mandel et. al. teach the air distribution system characterized in that the conduct (CON, see annotated Fig. 3 below) is incorporated to the distributing duct (131) (see Fig. 3). It is interpreted that the term "incorporated" means the distributing duct (131) and conduct (CON) are placed side by side in the same air-cooling compartment (ACC).

**In regard to claim 3**, Mandel et. al. teach the air distribution system characterized in that the distributing duct (131) comprises a rear basic portion (78) (see Fig. 2 and col 5 lines 36-39) in the form of a vertically disposed tray (154) having a rear wall (50) provided with a rear window (185) (see Fig. 3 and col 5 lines 55-56) and defining at least part of a front wall (61) of the air-cooling

compartment (ACC, see annotated Fig. 3 below) and a front cover portion (64, 65) to be seated and affixed against the rear basic portion (78) and being provided with at least one front opening (101) (see Fig. 3 and col 3 lines 42-44).

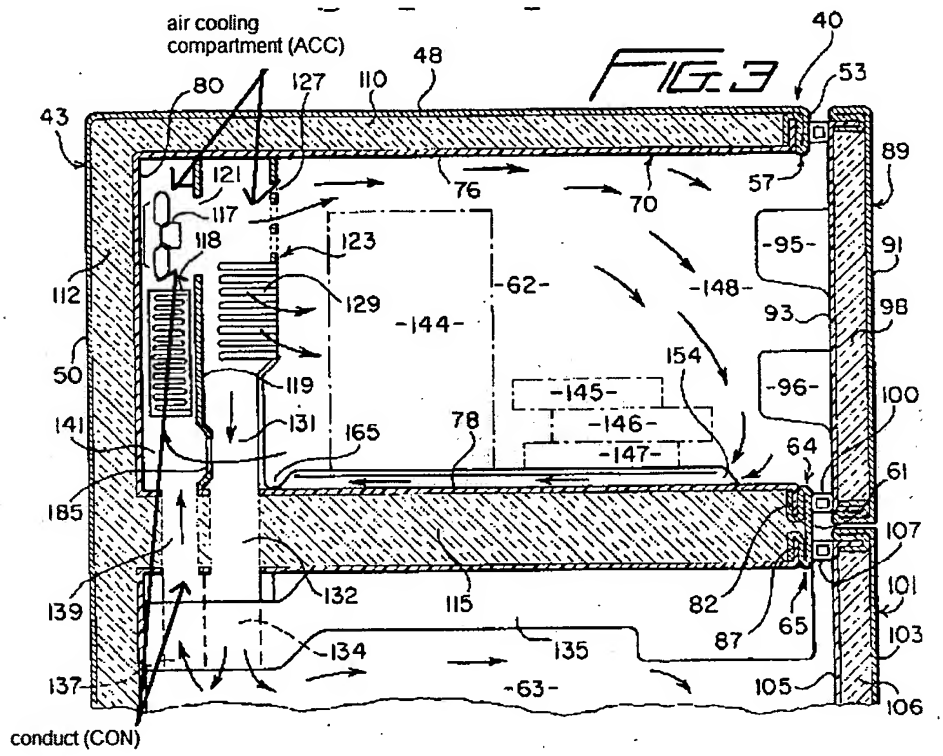
**In regard to claim 4**, Mandel et. al. teach the air distribution system characterized in that the front cover portion (89) defines a wall portion of the conduct (CON, see annotated Fig. 3 below) when assembled (see Fig. 3).

**In regard to claim 5**, Mandel et. al. teach the air distribution system characterized in that the conduct (CON, see annotated Fig. 3 below) is maintained in selective fluid communication with one of the parts (118) defined by the distributing duct (131) and by the air-cooling compartment (ACC, see annotated Fig. 3 below) by means of respective front opening (89, 101) and rear opening (134) produced by the rupture of corresponding wall portions of the conduct (CON) (see annotated Fig. 3 below).

**In regard to claim 6**, Mandel et. al. teach the air distribution system characterized in that the conduct (CON, see annotated Fig. 3 below) conducts a forced airflow supplied through the inlet (132) opening coming from the distributing duct (131) to whose rear window (127) is operatively associated a fan (117) (see Fig. 3 and col 4 lines 54-56).

**In regard to claim 7**, Mandel et. al. teach the air distribution system characterized in that the conduct (CON, see annotated Fig. 3 below) conducts a forced airflow which is produced by a fan (117) that is operatively associated to the end opening (132) and to the refrigerating compartment (63) and which is

supplied by the air-cooling compartment (ACC, see annotated Fig. 3 below) to the conduct through the rear opening (134) (see Fig. 3).




***Response to Arguments***

3. Applicant's arguments filed 10/3/07 have been fully considered but they are not persuasive.

The attorney for the applicant contends that passage 139 does not function to distribute cool air into the freezer 62 or fresh food compartment. However, the claim language does not explicitly state that the passage must function to distribute cool air into the freezer 62 or food compartment 63, only that it be in fluid communication. Thus, as air passes through passage 139 from food compartment 3 to freezer 62, this meets the metes and bounds of the claim limitations. As passage 131 and 139 have connected

passageways at the top and bottoms of their respective conduits, they are in fluid communication. Thus, for passage 131 to function properly, passage 139 is internal to it, as passage 139 is formed by the creation of the wall 119 within the duct 131.

The attorney for the applicant also contends that front opening 89 does not meet the limitations of claim 1. However, claim language in clam 1 has been interpreted that the distributing duct 131 is opened to the air-cooling compartment and the front opening communicating with the freezing compartment is another limitation not dependent on the distributing duct as they are two separate clauses linked by a comma, as in a list of elements that are part of the air distribution system. Therefore, opening 89 meets the limitations of claim 1 as the opening 89 is in communication with the freezing compartment 62 as it lets ambient air into the compartment when the door is opened.

Additionally, the attorney for the applicant contends that passages 131 and 139 are completely separate. However, they are combined together and have connecting passageways for air communication at the top and bottom of their respective passageways.

Additionally, air from the air cooling compartment cycles through passage 131 and 139 as the fan 117 forces air from the air cooling compartment over the evaporator 118 which mixes the air from passage 139. Also, air from the air cooling compartment passes through passage 131 and then through the top and bottom openings in passage 131 over to passage 139, thus through the entire cycle, air from the air cooling compartment is supplied to the conduct.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Iris Nalven whose telephone number is 571-272-3045. The examiner can normally be reached on Monday - Thursday 8 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisors, Cheryl J. Tyler can be reached on 571-272-4834 or Frantz Jules can be reached on 571-272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Emily Iris Nalven
Art Unit 3744
December 18, 2007

FRANTZ JULES
SUPERVISORY PATENT EXAMINER